

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

HM COMPOUNDING SERVICES,)
 LLC, and HMX SERVICES, LLC,)
)
 Plaintiffs,)
) Case No. 4:14-cv-01858 (JAR)
 v.)
)
 EXPRESS SCRIPTS, INC.,)
)
 Defendant.)

**EXPRESS SCRIPTS, INC.'S OBJECTIONS TO
HM COMPOUNDING'S AMENDED EXHIBIT LIST**

Defendant Express Scripts, Inc. (“Express Scripts”) hereby submits the following objections to HM New Jersey’s Amended Exhibit List:

Pre-trial Exhibit Number	Beginning Bates	Ending Bates	Exhibit Item Date	Description	Will Use or May Use	Objection
3	Express_Scripts_802_00000120	Express_Scripts_802_00000140	10/2/2013	Express Scripts, Inc. Pharmacy Provider Agreement (Ex. 5 to Murphy's deposition)	Will Use	
9	Express_Scripts_802_00001496	Express_Scripts_802_00001816	12/1/2013	Express Scripts, Inc. Network Provider Manual (complete document)	Will Use	
20	Express_Scripts_802_00006125	Express_Scripts_802_00006127	11/7/2013	Email chain RE COMPOUND (Ex. 7 to Klein's deposition)	Will Use	Subject to MIL re non-contract claims; FRE 402; FRE 403
24	Express_Scripts_802_00006309	Express_Scripts_802_00006311	4/3/2014	Email chain RE Meet to discuss Compounds, Audits, etc. (Ex. 24 to Klein's deposition)	Will Use	Subject to MIL re non-contract claims; FRE 402; FRE 403

Pre-trial Exhibit Number	Beginning Bates	Ending Bates	Exhibit Item Date	Description	Will Use or May Use	Objection
27	Express_Scripts_802_00006945	Express_Scripts_802_00006950	3/3/2014	Email chain RE Compounding Questions for Recredentialing (with attachment) (Ex. 7 to Bricker's deposition - not stickered)	Will Use	Subject to MIL re non-contract claims; FRE 402; FRE 403
34	Express_Scripts_802_00016139	Express_Scripts_802_00016141	9/9/2014	Email chain RE HMC Compounding (3198923) (Ex. 34 to Klein's deposition)	Will Use	FRE 402; FRE 403
48	Express_Scripts_802_00022732	Express_Scripts_802_00022735	9/12/2014	Email chain RE HMC Compounding (3198923) (Ex. 35 to Klein's deposition)	Will Use	FRE 402; FRE 403
69	Express_Scripts_802_00103336	Express_Scripts_802_00103622	8/1/2013	Express Scripts, Inc. Network Provider Manual (complete document)	Will Use	
78	HM005037	HM005037	7/22/2014 7/31/2014 8/1/2014 8/4/2014	(Composite exhibit) Letters and email re termination and request for appeal hearing	Will Use	Subject to MIL re non-contract claims; FRE 402; improper composite of documents; Bates number does not exist; foundation
104	HMESI001887	HMESI001887	6/6/2014	Email to "Accounting" RE FW: Contract Information (5810189 PA)	Will Use	FRE 402 foundation
164			2/19/2010	Express Scripts - Home Delivery Pharmacy Services Frequently Asked Questions	Will Use	FRE 402
165			5/1/2011	Express Scripts - Home Delivery Pharmacy Services Frequently Asked Questions (DE 303, Ex. 10)	Will Use	FRE 402
167			2/13/2014	Network Pharmacy Weekly - Fraud, Waste & Abuse Updates (Ex. 15 to Stockwell's	Will Use	FRE 402; FRE 403

Pre-trial Exhibit Number	Beginning Bates	Ending Bates	Exhibit Item Date	Description	Will Use or May Use	Objection
				deposition)		
171			7/9/2014	ESI letter to HMC Compounding re investigative review; copies of various prescriptions and shipping / tracking information (Ex. 3 to Eich deposition)	Will Use	FRE 402
180			8/18/2014	ESI letter to patient re no coverage for compounded medications (Ex. 17 to Stockwell's deposition)	Will Use	Subject to MIL re non-contract claims; FRE 402; FRE 403
209	Express_Scripts_802_00000007	Express_Scripts_802_00000007	6/3/2014	Powerpoint re Compound Management	May Use	Subject to MIL re non-contract claims; FRE 402; FRE 403
212	Express_Scripts_802_00000102	Express_Scripts_802_00000140	10/4/2013	Amended and Restated PSAO Services Agreement (Ex. 11 to Barnes' deposition)	May Use	
219	Express_Scripts_802_00001347	Express_Scripts_802_00001348	11/3/2014	Email chain RE Remittance update	May Use	FRE 402; FRE 403
220	Express_Scripts_802_00001407	Express_Scripts_802_00001409	10/2/2014	Email chain RE HMC Compounding (3198923) (with attachment)	May Use	FRE 402; FRE 403
253	Express_Scripts_802_00006969	Express_Scripts_802_00006970		Chart RE Compound Pharmacy Credentialing Review, Contracting and Termination (Ex. 8 to Barnes' deposition)	May Use	FRE 402
273	Express_Scripts_802_00010302	Express_Scripts_802_00010303	7/10/2014	Network Pharmacy Weekly - Compound Management Program (Ex. 11 to Davis' deposition)	May Use	Subject to MIL re non-contract claims; FRE 402; FRE 403
283	Express_Scripts_802_00011829	Express_Scripts_802_00011831	3/21/2014	Email chain RE SEIU-1199 Request (Ex. 21 to Klein's deposition)	May Use	Subject to MIL re non-contract claims; FRE 402; FRE 403
298	Express_Scripts_802_00016054	Express_Scripts_802_00016056	6/11/2014	Email chain RE NDC's Specific	May Use	Subject to MIL

Pre-trial Exhibit Number	Beginning Bates	Ending Bates	Exhibit Item Date	Description	Will Use or May Use	Objection
				Compound Ingredient blocks on September 15 (with attachment) (Ex. 10 to Davis' deposition)		re non-contract claim; FRE 402; FRE 403
304	Express_Scripts_802_00016881	Express_Scripts_802_00016883	2/26/2014	Email chain RE Compound Pharmacy Credentialing Process (Ex. 14 to Klein's deposition)	May Use	Subject to MIL re non-contract claim; FRE 402; FRE 403
307	Express_Scripts_802_00016941	Express_Scripts_802_00016950	3/14/2014	Email RE Compound Info from ESI - Confidential, with attached 2014 03 14 Compounds RxBenefits.pdf (Ex. 19 to Klein's deposition)	May Use	Subject to MIL re non-contract claim; FRE 402; FRE 403
318	Express_Scripts_802_00017813	Express_Scripts_802_00017813	6/17/2014	Powerpoint - Compound Management Solution	May Use	Subject to MIL re non-contract claim; FRE 402; FRE 403
320	Express_Scripts_802_00017814	Express_Scripts_802_00017815	6/16/2014	Doc Express Scripts Compound Management	May Use	Subject to MIL re non-contract claim; FRE 402; FRE 403
346	Express_Scripts_802_00027433	Express_Scripts_802_00027435	7/7/2014	Email chain RE Pharmacy Compounding	May Use	Subject to MIL re non-contract claim; FRE 402; FRE 403; FRE 802
352	Express_Scripts_802_00028358	Express_Scripts_802_00028368		Compound Dashboard (Ex. 8 to Davis' deposition)	May Use	Subject to MIL re non-contract claim; FRE 402; FRE 403
412	Express_Scripts_802_00086754	Express_Scripts_802_00086755	9/5/2014	Email re Conversation with Gavin, John P.	May Use	FRE 402; FRE 403
433	Express_Scripts_802_00087417	Express_Scripts_802_00087417_007	11/00/2012	Document titled "Compound Prescriptions"	May Use	Subject to MIL re non-contract claim; FRE 402; FRE 403
448	Express_Scripts_802_00087600	Express_Scripts_802_00087601	7/21/2014	Email chain RE Compounding Definitions	May Use	Subject to MIL re non-contract claim; FRE 402;

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						FRE 403
454	Express_Scripts_802_00087710	Express_Scripts_802_00087719	11/3/2014	Email re HM Compounding - Billing issues (Redacted)	May Use	FRE 402; FRE 403; FRE 802
464	Express_Scripts_802_00088092	Express_Scripts_802_00088093	6/10/2014	Email chain FW: Compound Claims - Please Respond by Noon, June 5 (Thurs)	May Use	Subject to MIL re non-contract claim; FRE 402; FRE 403
474	HM004588	HM004588	8/6/2014	Email re Express Scripts Pharmacy Provider Agreement (with attachment)	May Use	Bates number does not exist; subject to MIL re Aug. contract; FRE 402; FRE 403; FRE 802; foundation
475	HM004589	HM004589	8/4/2014	Express Scripts, Inc. Pharmacy Provider Agreement by and between Express Scripts, Inc., a Delaware corporation, on behalf of itself and Medco Health Solutions, Inc. and HMX Services, LLC, NCPDP #3198923, a pharmacy organized under the laws of the State of New Jersey	May Use	Bates number does not exist; subject to MIL re Aug. contract; FRE 402; FRE 403; FRE 802; foundation
477	HM010276	HM010276	8/18/2014	Email re 3198923 HM Compounding Status	May Use	Bates number does not exist; foundation
484	HMESI001765	HMESI001807	6/24/2014	Letter to HM Compounding re investigative review with multiple attachments (Ex. 9 to Ptachcinski's deposition)	May Use	FRE 402
504			2/19/2010	Express Scripts Home Delivery Pharmacy Services FAQs (Reference Doc) (DE 303 Ex. 8)	May Use	FRE 402

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507			12/3/2010	Letter to Alex Chervinsky and Anthony Phillips re PCAB accreditation (Ex. 1 to Reiter's deposition)	May Use	Subject to MIL re NY pharmacy; FRE 402; FRE 403
511			8/20/2012	Administrative Rules Law and Public Safety Subchapter 27, New Jersey Uniform Prescription Blanks Program (Ex. 15 to Ptachcinski's deposition)	May Use	FRE 402
526			3/17/2014	Certificate of Approval (Fran Malkin PhD)	May Use	FRE 402, FRE 403, foundation
530			5/30/2014	Word version of letter re acceptance of application to participate in an ESI network and outlining missing documents or discrepancies (HM Compounding, NCPDP# 3198923)	May Use	FRE 402, FRE 403, foundation; native document not produced in discovery
535			6/14/2014	Word version of follow-up letter re acceptance of application to participate in an ESI network and outlining missing documents or discrepancies (HM Compounding, NCPDP# 3198923)	May Use	FRE 402, FRE 403, foundation; native document not produced in discovery
544			8/14/2014	Express Scripts, Inc. Pharmacy Provider Agreement (Contract Number: NCM211217)	May Use	Subject to MIL re Aug. contract; FRE 402; FRE 403; FRE 802; foundation
555			2/5/2015	Letter from Jeff Dykes, Director, Stat Group Insurance, to Mark Wermos, Vice President, General	May Use	Subject to MIL re non-contract claims; FRE 402; FRE 403;

Pre-trial Exhibit Number	Beginning Bates	Ending Bates	Exhibit Item Date	Description	Will Use or May Use	Objection
				Manager, Express Scripts, Inc. re: pharmacy drug claim overpayments		not produced in discovery

DATED: November 12, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 12, 2018, a copy of the foregoing and all related documents were filed with the clerk of the court using the CM/ECF system that will automatically send email notification of such filing to:

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